HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.7096 of 2006

Dated:14.09.2006

Between:

Mohd.Anwar Ali.

…Petitioner

and

The A.P.State Wakf Board.

…Respondent

HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.7096 of 2006

ORDER:

The petitioner is Mutawalli of Durgah-E-Bodlesh situated at Nirmal in Adilabad District. As Manager of such Wakf, the petitioner submitted an application to the Nirmal Municipality seeking permission for construction on the Wakf property. By a notice, dated 15.04.2005, the Commissioner of the Nirmal Municipality advised the petitioner to obtain No Objection Certificate (NOC) from the Wakf Board. In the meanwhile, the petitioner approached the respondent for NOC. By letter, dated 18.02.2005, the application of the petitioner was forwarded to the Inspector Auditor Wakfs, Adilabad District, to make a spot inspection and submit report. In spite of the same, the petitioner was not given NOC. Therefore, he filed the present Writ Petition seeking a direction to the respondent to issue NOC.

Heard the learned Counsel for the petitioner and the learned Standing Counsel for the A.P.Wakf Board.

Section 50 of the Wakf Act, 1995, stipulates duties of Mutawalli. Rule 20 of the Andhra Pradesh Wakf Rules, 2000 (for short 'the Rules'), further elaborates these duties. Sub-rule (6) of Rule 20 of the Rules reads as under.

> (6) In addition to the duties mentioned in Section 50 of the Act, a Mutawalli also shall :-

(i) administer the Wakf property according to the wishes of the Wakf as mentioned in the Wakf deed; or custom and usage recognized by Muslim Law:

(ii) prepare the budget of the Wakf and keep the accounts in order and submit statement of actual income in the month of May of each year;

(iii) keep the Wakf buildings and other properties in good condition; into by the Board;

(iv) perform the rights to the best of his ability;

(v) try to increase the income of the Wakf property; if the property is illegally occupies, the Board shall issue a requisition to the concerned District Collector for eviction.

(vi) Kept the registers of movable property upto date by incorporating possession of the property into it.

(vii) try to improve the property by construction of new building or acquisition of new property wherever possible, with the prior approval of the Board;

(viii) open morning or evening schools to impart religious education to children and adults wherever possible with the previous sanction of the Board; and

(ix) implement the orders issue by the Board from time to time.

(emphasis supplied)

As rightly pointed out by the learned Standing Counsel, though there is no provision enabling the State Wakf Board to issue NOC whenever construction is taken up by a Mutawalli, a Mutawalli cannot take any steps to improve the wakf property by construction of a new building without prior approval of the Board. Perhaps in that view of the matter, the petitioner requires NOC from the respondent before seeking permission for construction on the wakf property. Therefore, the respondent may look into the matter and pass appropriate orders within a period of four weeks from the date of receipt of a copy of this order.

The Writ Petition is accordingly disposed of. No costs.

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(V.V.S.RAO, J)

14.09.2006

vs